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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

CHIN, BRAD Y

ART UNIT PAPER NUMBER

1744

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/824,824

Applicant(s)

SMITH ET AL.

Examiner

Brad Y. Chin

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 15 April 2004.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: On page 5, line 14, Applicant mentions upper edge "130" of the reservoir. It is believed Applicant meant to identify the upper edge of the reservoir with numeral, "120". Appropriate correction is required.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: In Figures 9 and 10: vent holes 165, mechanical stop 170, pin 172, and slot 174; and in Figure 9: base 161, tabs 176, and exterior threads 178. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Abstract

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the abstract exceeds the 150 word limit. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
1. Claims 1, 3-10, and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammons et. al. [U.S. Patent No. 5,840,246] in view of Berenger [U.S. Patent No. 1,067,965], in further view of Ruetz [U.S. Patent No. 2,774,235], and further in view of Frangos [U.S. Patent No. 3,355,913].

Regarding claim 1, Hammons teaches an oil burning lamp comprising:

a reservoir configured for storing a supply of oil (fluid vessel 12 with fuel 14 – See Fig. 1; fluid vessel 282 with fragrance oil – See Fig. 7);

a burner tube (wick holder tube 22 in Fig. 1; wick holder tube 278 in Fig. 7), the burner tube having a first end and an opposing end; and

a wick (wick 16 in Fig. 1; wick 280 in Fig. 7) mounted to the burner tube, the wick having a first end and a second end, the first end of the wick extending into the reservoir and the second end of the wick extending outwardly from the second end of the burner tube (See Fig. 1; See Specification, col. 2, lines 54-61 – one end 18 extending from the interior of fluid vessel 12 which is intended to be ignited and burned and a second end 21 which is at least partially in contact with the fuel).

Hammons fails to teach a base defining an interior and an opening, the opening communicating with the interior and being sized and shaped to receive the reservoir such that the reservoir can be placed within the interior. Hammons' oil burning lamp uses the base of his apparatus defining an interior and an opening for storing the supply of oil. Hammons fails to teach a separate reservoir within the base of the oil burning lamp to store the fragranced oil. Hammons further fails to teach that the burner tube is movably mounted to the reservoir between a retracted position and an extended position; where the burner has at least one opening formed between the first end and second end; where in the retracted position the first end and the second end are located within the reservoir; where in the extended position the first end is located within the reservoir and the second end is located outside the reservoir; and where the at least one opening is located such that the fragranced components of the oil stored in the reservoir can be entrained by air and emanated from the base.

Berenger, Ruetz, and Frangos teach each of the missing aspects identified above that Hammons fails to teach.

Art Unit: 1744

Berenger [U.S. Patent No. 1,067,965]

Berenger teaches an oil burning lamp comprising a reservoir configured for storing a supply of oil (oil font D for storing a supply of oil) and a base defining an interior and an opening, the opening communicating with the interior and being sized and shaped to receive the reservoir such that the reservoir can be placed within the interior (main portion A of the lamp casing is provided with closed base C forming a pocket or receptacle for oil font D into which the latter is inserted from above – See Specification, first page, col. 2, lines 82-86).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hammons with Berenger because providing Hammons' oil burning lamp with a removable oil reservoir would provide the user with the ability to refill and clean the reservoir; a common practice in oil burning lamps.

Ruetz [U.S. Patent No 2,774,235]

Ruetz teaches a burner tube of an oil burning lamp having a first end and an opposing second end movably mounted to the reservoir of the oil burning lamp between a retracted position and an extended position (See Fig. 1 extended position and Fig. 2 retracted position). In the retracted position, the first end and the second end of the burner tube are located in the reservoir. In the extended position, the first end is located within the reservoir and the second end is located outside the reservoir (See Specification, col. 2, lines 17-27. Coil spring 22 urges burner head 21 upwards until a valve-forming conical shoulder 23 of the burner head 21 engages a seat-forming conical shoulder 24 formed inside the tubular member 14, as shown in Figs. 1 and 2; See Specification, col. 2, line 62 to col. 3, line 3 and lines 39-47 – a cap placed on the top of the oil burning lamp pushes the burner tube into the reservoir, compressing spring coil

22; whereas, when the cap is removed, the spring coil 22 causes the burner head 21 to be snapped to the upper position, shown in Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hammons with Ruetz because it would have been obvious to provide a means for sealing the top of the oil burning lamp, i.e. for transportation. Incorporating Ruetz into Hammons would provide the user with the ability to seal the oil burning lamp with a cap, as is common in the art, as well as allow the burner tube and wick to be retained within Hammons' apparatus, preventing spilling of oil from the reservoir of the oil burning lamp during transportation.

Frangos [U.S. Patent No. 3,355,913]

Frangos teaches an oil burning lamp comprising a burner tube (with stem part 16; See Figs. 1 and 2) having a first end, an opposing second end, and at least one opening formed between the first end and second end (side ports 18 See Figs. 1 and 2). Frangos further teaches a burner tube in its extended position where the first end is located within the reservoir (See Figs. 1 and 2), the second end is located outside the reservoir (See Figs. 1 and 2), and the at least one opening, formed between the first end and the second end, is located such that the fragranced components of oil stored in the reservoir can be entrained by air and emanated from the base (See Figs. 1 and 2 – side ports 18 positioned between first end and second end of burner tube located such that fragranced components of oil stored in the reservoir can be entrained by air and emanated from the base as air passes through side ports 18).

It would have been obvious to one ordinary skill in the art at the time the invention was made to modify Hammons with Frangos because Hammons teaches an oil burning lamp which functions to release the fragrance of a scented oil when the wick is burning. It would have been

obvious to provide Hammons with the burner tube of Frangos, providing additional means for the release of the fragranced components of the oil stored in the reservoir and allowing air to entrain such fragrances outward from the oil burning lamp.

Regarding claim 3, Hammons, Berenger, Ruetz, and Frangos teach the oil burning lamp of claim 1 as identified above. Hammons further teaches an insert (emanator 252) having an outer wall (upward extending exterior wall 256) and an inner aperture (cavity 246), the inner aperture (cavity 246) being sized and shaped to receive the burner tube (center post part 258), the outer wall being sized and shaped to be received by the reservoir (fluid reservoir 242).

Regarding claims 4-6, Hammons, Berenger, Ruetz, and Frangos teach the oil burning lamp of claims 1 and 3 as identified above. With respect to claims 4-6 it would have been obvious to one of ordinary skill in the art at the time the invention was made to attach the spring of Ruetz in conventional ways to the oil burning lamp, as identified in claim 3, absent any unexpected results.

Regarding claims 7 and 8, Hammons, Berenger, Ruetz, and Frangos teach the oil burning lamp of claim 1 as identified above. Hammons further teaches an oil burning lamp of claim 1, further comprising oil located in the reservoir (fuel 14). Hammons further teaches an oil-burning lamp of claims 1 and 7 where the oil is fragranced (scented oils or perfumes which may be a pure essence oil; See Specification, col. 5, lines 13-27).

Regarding claim 9, Hammons, Berenger, Ruetz, and Frangos teach the oil burning lamp of claims 1 and 3-4 above. Ruetz further teaches that the base has a recess located within the

interior [of the oil burning lamp] and the reservoir sits within the recess (closed base C forming a pocket or receptacle for the oil font D into which the latter is inserted from above).

Regarding claims 10 and 12, Hammons, Berenger, Ruetz, and Frangos teach the oil burning lamp of claim 1 above.

Regarding claim 10, Hammons further teaches a fragrance-deflecting assembly positioned such that at least a portion of the fragrance-deflecting assembly is between the base and the second end of the burner tube where the fragrance-deflecting assembly is operative to direct a flow of air outwardly from the burner tube (casing element cap 356 with plurality of passages 360, which are slits permitting volatized fragrance material from emanator elements to pass therethrough. Casing element cap 356 is located between the base of the oil burning lamp and the second end of the burner tube).

Regarding claim 12, Hammons further means for directing air flow outwardly from the burner tube (See explanation for claim 10 preceding).

Regarding claim 13, Hammons, Berenger, Ruetz, and Frangos teach a fuel-supply module for an oil burning lamp, the fuel supply module comprising:

a reservoir defining an interior and an opening, the opening communicating with the interior, the interior being configured for storing a supply of oil (See explanation for claim 1 above);

a wick assembly having a burner tube and a wick, the burner tube being movably mounted to the reservoir between a retracted position and an extended position, the burner tube having a first end and an opposing second end, in the retracted position the first end and the second end being located with the reservoir, in the extended position the first end being located

within the reservoir, the second end being located outside the reservoir, the wick mounted to the burner tube, the wick having a first end and a second end, the first end of the wick extending into the reservoir and the second end of the wick extending outwardly from the second end of the burner tube (See explanation for claim 1 above); and

Ruetz specifically teaches a lid sized and shaped for mating with the opening of the reservoir and movable between a closed position and an open position, in the closed position the lid sealing the oil within the reservoir and retaining in the burner tube in the retracted position (cap 33 engages the head of the burner, pushing the burner downwards against the resistance of the coil spring 22; See Specification, col. 2, lines 65-71 – seals the oil within the reservoir while retaining the burner tube in the retracted position).

Regarding claim 14, Hammons, Berenger, Ruetz, and Frangos teach the fuel-supply module of claim 13 as identified above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a child resistant cap to prevent children from spilling oil from the reservoir and/or injury from use of the oil burning lamp.

Regarding claim 15, Hammons, Berenger, Ruetz, and Frangos teach the fuel-supply module of claim 13 as identified above. Frangos specifically teaches the burner tube has at least one opening formed between the first end and the second end (See explanation for claim 1 above).

2. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hammons et. al. [U.S. Patent No. 5,840,246] in view of Berenger [U.S. Patent No. 1,067,965], in further view of

Ruetz [U.S. Patent No. 2,774,235], and further in view of Frangos [U.S. Patent No. 3,355,913], as applied to claim 1 above, and further in view of Baker et. al. [U.S. Patent No. 1,909,515].

Hammons, Berenger, Ruetz, and Frangos teach the oil burning lamp claimed in claim 1 above. They fail to teach a stepped ledge, a height of the stepped ledge being selected to correspond to a flame height of a flame formed at the second end of the wick.

Baker teaches a stepped ledge (conical head 20) attached to the second end of a burner tube where the height of the stepped ledge is selected to correspond to a flame height of a flame formed at the second end of the wick.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hammons, Berenger, Ruetz, and Frangos with Baker because Baker would provide the user with the ability to control the heat source used in the aforementioned references, thus regulating the fragrance emitted from the oil burning lamp.

3. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hammons et. al. [U.S. Patent No. 5,840,246] in view of Berenger [U.S. Patent No. 1,067,965], in further view of Ruetz [U.S. Patent No. 2,774,235], and further in view of Frangos [U.S. Patent No. 3,355,913], as applied to claim 1 above, and further in view of Taylor et. al. [U.S. Patent No. 5,624,230].

Hammons, Berenger, Ruetz, and Frangos teach the oil burning lamp claimed in claims 1 and 10 above. They fail to teach the fragrance-deflecting assembly has a base and a collar, the base and collar having corresponding vent holes, the collar being movable with respect to the base such that the corresponding vent holes are alignable by moving the collar with respect to the base for controlling the flow of air.

Taylor teaches a fragrance-deflecting assembly (diffusion device) having a base (housing 50) and adjustment baffle 60, the base and collar having corresponding vent holes (scent diffusion sidewall orifices 85 and 75, respectively), the collar being movable with respect to the base such that the corresponding vent holes are alignable by moving the collar with respect to the base for controlling the flow of air (the baffle 60 defined scent diffusion control orifices 85 which in cooperation with the sidewall orifices 75 regulate diffusion of scent).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hammons, Berenger, Ruetz, and Frangos with Taylor because Taylor teaches an air freshener diffusion device which uses heat produced by an associated light as a by-product to release a volatile scent to be defused by air circulated by ambient air currents and incorporating Taylor with the aforementioned references would allow the user to disperse a controlled diffusion of oil fragrance.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brad Y. Chin whose telephone number is 571-272-2071. The examiner can normally be reached on Monday – Friday, 8:00 A.M. – 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden, can be reached at 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

byc

November 22, 2004



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